enable Government to place it before the Standing Finance Committee. (Hear, hear). I find there is considerable slackness in that behalf.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—In view of that statement of the Diwan I take this occasion to thank the Diwan and request him with the permission of the House to allow me to withdraw my opposition.

Dr. A. R. Poduval *(Director of Public Health and Panchayats).*—Sir, the exact period for which the plague staff has been asked to work was not settled, it has been continued and the exact amount required for salaries and for getting down of stores, etc., was known only very lately and this delay in submitting the demand is due to that.

Mr. President.—The departmental heads whenever they require additional grants should make their proposals sufficiently early so that Government may be able to place them before the Standing Finance Committee. I suppose they have to make estimates of expenditure before hand.

Grant was put and carried.

The Cochin Newspaper Act Repeal Bill (contd).

Mr. President.—We shall resume the discussion on the Cochin Newspaper Act Repeal Bill.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—Yesterday I was attempting to show how the provisions of this Bill which is now sought to be repealed have been worked in practice during the short time of two years now since this Act has been in force. I was dealing with section 3 which says that before a newspaper is published it has to take out a license paying a license fee. The fee as I submitted yesterday ranges from Re. 1 to Rs. 500. The fee that has been levied during these 3 years has been invariably, if I may so term it, nominal. The fee levied in many cases, in fact in almost all cases, is Rs. 10. In very many cases it is Rs. 5 and in some even Re. 1. In one case it is Rs. 100 and in another the maximum fee of Rs. 500 was levied. It will thus be seen, Sir, that in the actual working of this Act, the Government, though it has got the power under the Act to levy the maximum, has been exercising that power in the most sympathetic manner, in the most lenient manner possible so far as that section which makes it obligatory upon publishers to take out the license is concerned. Now having

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taken out the license the next subject is whether under any circumstances this license is liable to be cancelled, and if so how. The section which deals with that matter is section 5 which is the most important section so far as this Act itself is concerned.

"Whenever it appears to the Government that any newspaper in respect of which a license has been granted under this Act—

(i) contains any words, signs or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise—

(a) to excite disaffection against or bring into hatred or contempt His Highness the Maharaja of Cochin or the Government of His Highness the Maharaja or His Majesty the King Emperor of India or the Government established by law in British India, or

(b) to promote feelings of enmity or hatred between the several classes of people in Cochin, or

(ii) habitually publishes matter punishable under section 180 of the Cochin Penal Code (Act I of 1059), or

(iii) habitually disseminates false information,

the Government may with or without previous warning cancel, by notice in writing to the printer as well as to the publisher of such Newspaper indicating or describing such words, signs, visible representations or matter, the license granted in respect of such Newspaper and upon such cancellation the declarations made under section 5 of the Cochin Press and Registration of Books Act, VII of 1097, in respect of such Newspaper, shall be deemed to have been annulled and the license fee shall be forfeited to the Government.

Explanation.—For the purposes of clause (a) of sub-section (1) of this section, Explanations I, II and III under section 120 of the Cochin Penal Code, Act I of 1059, shall be deemed to be applicable".

In fact that is the section which enables the Government by an *ex-parte* executive order, as it were, to cancel the license and to forfeit the license fee. Let us now see in how many cases Government have resorted to this power that is vested in the Government under the Act. In one solitary instance, this power was exercised. I have already placed before the House, a list of licenses that has been given or issued under this Act during these 3 years. It is only in one solitary case that this unpleasant task, I admit that it is an unpleasant task, where a license has to be cancelled and the amount levied as license fee forfeited had to be done.

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Dr. A. R. Menon *(Pallippuram)*.—Which was that particular case? What was the provocation for that?

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—It was in the case of 'Keralan'. Some of the articles published in that paper were found to be objectionable and coming under the purview of this particular section and that was why action was taken.

Dr. A. R. Menon *(Pallippuram)*.—Are you sure of your grounds?

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—Now, to proceed with, it will be seen whether this action of the Government gives any remedy to the aggrieved party either to take the matter to a court of law or to take it before the Government itself for a reconsideration of their ex-parte order. It will be seen from section 9 of this Act that there is ample provision made for any aggrieved party by any so-called unjustifiable act of the Government to seek redress either before a court of law or by application to Government itself. It may be according to the aggrieved party that the Government might not have been in full possession of the facts before issuing the order. It may be that the opinion expressed by Government that the matter that is contained in that paper comes within the purview of that section is wrong. It is open to him to apply to Government to revise that order and there is ample provision in this very section which gives power to Government to revise its own order if the Government is satisfied that the order that was issued first was wrong or unjustifiable. Now supposing the Government clings to its original view, the party is not left without any remedy. It is the bounden duty of Government to refer the matter to the highest court in the land and the order of the Government is subject to a judicial scrutiny by a full bench of the three judges of our highest court.

Mr. P. Govinda Menon *(Adur)*.—In such a case what will be the fate of the paper itself? Can it continue publication?

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—It cannot. So that my submission to this House is, even with reference to the particular power that is vested in the Government to declare a paper that it has come under the mischief of that particular section and as a result of it to pass an order of

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forfeiture, there is ample remedy provided for the aggrieved party either to seek redress at the hands of the Government itself or if the Government refuses to revise that order, to have the matter referred to the highest court. And when the matter is before the court, the court hears the application, it considers the whole matter and then expresses its opinion whether the order of cancellation or forfeiture passed by Government is in order or not. Now these are the main provisions of this Act. This is characterised as an objectionable Act, the provisions of which are sought to be at once repealed. There is a provision no doubt to levy a license fee. It is the imperative duty of the publisher to take out a license for his paper. Under certain circumstances if Government is satisfied that the paper is not carrying on its work properly and comes within the mischief of a section that is laid down here, there is power given to Government to cancel that license. Hon'ble Members will be pleased to see that even before cancellation, there is also a provision that Government need not at once cancel the license but it may give a warning, 'Look here, Editor, your paper seems to go beyond the limits'. That is the Act.

Dr. A. R. Menon *(Pallippuram)*.—Have you given such a notice before you took action on that particular paper?

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—I am not quite sure—I cannot say definitely whether such a warning was issued in the case of that particular paper.

Dr. A. R. Menon *(Pallippuram)*.—I am just asking how that machinery is operating in practice.

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—In fact it has operated only once.

Dr. A. R. Menon *(Pallippuram)*.—How did you act then?

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—Now I have stated that action was taken in the case of a particular paper in one instance and that matter was also referred to the court. For reasons best known to the party aggrieved, he did not choose to press that matter before the court. In fact the information of the Government is that he did not want to press the reference, so that the court had no occasion to consider whether the order of the Government was illegal or otherwise. This is how the Act has been worked during the last three years. I can very well understand that if there had been a lot of instances where the Government had to take repeated action,

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where the Government had to frequently resort to the provisions for cancelling or forfeiture and if there is a regular cry that this is an engine of oppression that is being worked by Government, I can very well understand that there should be a demand for this repeal.

Dr. A. R. Menon *(Pallippuram.)*—That is our contention.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— That is why I said for such a contention there must be facts to substantiate that contention. What are the facts? Here during the last three years there has been only one instance and the party aggrieved did not want to see whether the order passed by Government was correct or not. Probably he was satisfied with the order that was passed and so he thought there was no use of pressing that matter before the court. Unless he thought that the order itself was perfectly right, if he had the slightest belief in his mind that this is an unjust order and could not stand judicial scrutiny even for a single minute, I cannot believe that the party would not have pressed this matter before the highest court itself for which there is provision. To my humble mind it seems that either he was satisfied himself or he must have been advised by his lawyers whom he must have consulted that there was no use in pressing that matter before the court. He had passed beyond the limits and by his own deeds had brought himself within the provision of this section. So that when you say, when the Hon'ble Members say, when the mover says that this is a law which cannot remain in the statute book any longer, it is a piece of legislation which has oppressed us, which has controlled our freedom completely, we are not in a position to express our views, the moment we express our views against you we are liable to be caught within the mischievous section of this very act itself then I am unable to understand your argument.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—That is exactly our case.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— It is not enough. It is simply stated that it is our case. Why not cite some instances where Government had to take action under that section? Has there been any single instance except the one that is now explained and what is the result?

Mr. T. K. Nayar *(Pazhayannur).*— Is it the case of the Government that this Bill was promulgated for this one instance? You have not yet proved the necessity for such an enactment.

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Mr. E. Ikkanda Warriar *(Urakam).*— Our position is that no independent paper will come forward so long as this Damocles Sword is hanging over them. How can you ask us for any instances.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— The argument reduces itself to this. Wherever there is the Press Law either similar to the one that is here in force or either in a milder form or more vigorous form, there cannot be an independent press. In fact that seems to be your argument. Yesterday I pointed out that there are editors here of well known papers, papers of standing, that if they are prepared to say that on account of the presence of this Act their freedom to express their views, has been absolutely curtailed and they have been reduced to the mere position of Vaithalikans or sychophants, then there would have been something in this motion.

Mr. C. R. Iyyunni *(Trichur South).*—It is not a question of freedom being absolutely curtailed but curtailed to a considerable extent.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— The preamble of the Act itself says "for the better control of the Press." How is the freedom of the press taken away simply because in a particular instance before a paper is published the publisher has to take out a license. I can very well understand that if an enormous amount is levied, that if an impossible condition is imposed upon an editor or printer before he can start a paper, that he has to pay 5 thousand or ten thousand rupees as license fee; then I can very well understand that, in fact, it is stifling practically the freedom for starting any paper at all. Is that so here? I have shown instances that it is within the reach of every average printer to take out a license and so far as that provision is concerned, there is no other difficulty.

Now, Sir, if a security of five or ten thousand rupees is demanded from a paper then I can very well understand that it is placing a premium for not starting a paper at all. The security amount that we demand now under the Act is practically within the reach of every printer and so far as that provision is concerned there is no difficulty. That is the only provision which is not contained either in the Criminal Procedure Code or in the Penal Code. You will find that disaffection towards His Highness or sedition is an offence under the Penal Code. The only additional provision that you find so far as this Act is

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concerned is the obligation on the part of the printer to take out a license before he starts a paper. Now if that obligation on his part, which is made compulsory under this Act, the House thinks is taking away the freedom of the Press, I am sorry the Government cannot agree with that view. Even if that section is taken away no doubt the Government can take action under the Penal Code, so that there is nothing new here. This is made a self-contained Act as it were and so far as the offences under the Penal Code are concerned Government cannot take action against the offender unless he is prosecuted.

Dr. A. R. Menon (*Pallippuram*).—That is the point.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—So far as that matter is concerned no doubt there is some departure but the acts contemplated are all things which are enunciated in the Penal Code itself. In certain instances where the Government thinks that a particular paper has committed an offence, there is a power given to the Government either to warn the paper for the first time or to take action and cancel his license. He is not without any remedy. He can take the matter to the civil court directly. But in the case of an offence charged under the Penal Code he has to be hauled up before a Magistrate and there must be a police enquiry. The police must charge-sheet him before a court and if there is a conviction there is an appeal. In the other case the matter is placed before the highest court in the land.

Dr. A. R. Menon (*Pallippuram*).—Don't you realise that there is a vital difference? In one case the onus of proof rests with you. But in the other case the onus of proof rests with the paper. In a court of law you must prove.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—So far as the action of the Government is concerned the Hon'ble Member has not properly understood the provision in this section. Government only take action if in their opinion the paper has committed that mischief. Now if he wants the Government to revoke the order the burden of proof may be upon him to show that he is not guilty of the offence so far as this section is concerned. But when the matter goes to the court there is no such thing as burden of proof. Now there is an order passed by the Government. It will be the duty of the court to see whether that order is right or wrong.

Dr. A. R. Menon (*Pallippuram*).—Will not there be the Government Advocate representing the Government?

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Mr. K. P. Kannan Nayar *(Secretary to Government)*.—No doubt there will be a representative of the Government. It is not an order that would be passed in Chambers by the Judges. Suppose an order is passed by the Government. There will be a counsel on the other side to show that the order is wrong. What I say is that there is a consideration given to the question by the Judges of the highest court. They give a ruling. If they think that the article is not one which will fall under the particular section, then it is open to them to say that the order is clearly wrong. So there is no such thing as the party having to show this and that. It is such a simple matter. We are concerned with the particular articles in English or Malayalam. The only question is whether those articles are capable of inciting disaffection, whether it may be called sedition or whether it is an article which brings into hatred or contempt the several subjects of His Highness the Maharaja. Now in considering that matter previous issues of that paper also will be filed as evidence. That is, all things are considered by the Court of Law. They will certainly consider the antecedents of the paper. The Government are at perfect liberty to produce back issues of the paper to show that the paper is habitually indulging in such sort of objectionable criticism. It is also open to the party to produce his papers to show that he has not ever gone beyond the limits of fair criticism. It is open to the printer or publisher to quote instances where he has been following that policy. So that my submission so far as the various provisions are concerned is that there is nothing that can be considered to be either oppressive or objectionable in the Act. Government thought that it should have power to some extent to control the activities of the press and it is only for that purpose that this Bill is enacted. The Government only use very sparingly the power that is vested in them and this power is vested in the Government for the welfare of their own subjects. Government realise that they have got the power but in using that power Government has never used it as a giant though you may say that there is giant's power in its hands. The power is exercised in a most sympathetic manner and nobody can say that they have abused it. Of course you may say, apart from the instances, the whole Act is obnoxious. But no critic can say that the Government, so far as this Act is concerned, has abused the power that is vested in it.

Dr. A. R. Menon (*Pallippuram*).—I can quote instances where that power has been abused. Then will you take away this Act.

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Mr. K. P. Kannan Nayar *(Secretary to Government).*— If my Hon'ble friend tries to prove that then probably I may be able to explain in my reply the circumstances under which that power was used. Let us see whether so far as the Cochin Government is concerned we have taken any unique action in this matter. Is not such an enactment prevalent in the neighbouring State of Travancore? I said yesterday that the neighbouring State of Travancore were having this legislation for the past twelve years.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— All shame for that.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— Practically our provisions are word for word a copy of the Regulation that is in force in Travancore.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— That is no argument.

Mr. P. Govinda Menon *(Adur).*—May I know the year in which that was passed in Travancore?

Mr. K. P. Kannan Nayar *(Secretary to Government).*— In the year 1101. So that it has been in force in Travancore for the last 12 years. I think there is such a law in Mysore also. So far as British India is concerned it is a much more repressive measure.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— No.

Mr. K. P. Kannan Nayar *(Secretary to Government).*— The Press Act of 1931 subsequently amended by the Criminal Law Amendment Acts of 1932 & 1935 has placed it on the Statute Book as a permanent measure.

Dr. A. R. Menon *(Pallippuram).*—Can you prove that this Act is less stringent than the corresponding British Indian Act?

Mr. K. P. Kannan Nayar *(Secretary to Government).*— I can show it by comparing the provisions in both. The first Act is that of 1931. That was only a temporary measure. But it was subsequently made permanent by the Criminal Law Amendment Acts of 1932 & 1935. Certainly by comparing the provisions of that Act with our Act I can show that our Act is milder than the corresponding British Indian Act.

Dr. A. R. Menon *(Pallippuram).*—There is a belief that our law is very stringent and the other is lenient.

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Mr. K. P. Kannan Nayar *(Secretary to Government).*—Is it the opinion of the House that they agree to a press law on the lines of the British Indian Press Act?

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Certainly not.

Mr. President.—If it is the opinion of the House that they are opposing this Act because it is more rigorous than the Press Law in British India, then I can certainly consider of enacting a legislation on the lines of the one existing in British India.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—That is not our position. The motion before the House is to repeal the existing Press Law and not to amend it. That is the only issue before the House.

Mr. President.—Then I do not think that any useful purpose will be served by comparing the two enactments.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—There may be some Hon'ble Members who would like to know the provisions of the British enactment. It is for the Hon'ble the Secretary to decide whether a comparison with the British Act should be made or not.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—So far as the 1931 Act of British Inda is concerned the preamble is this: "Whereas it is expedient to provide against the publication of matter inciting to or encouraging murder or violence it is hereby enacted as follows". Then section 3 is this: "Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act 1867 may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount not being more than one thousand rupees, as the Magistrate may in each case think fit to require in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose".

Mr. President.—It is better to take up this point along with the main reply.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—Yes. In the meantime I shall make a general statement to the effect that our Press Law is less oppressive than the corresponding British Law. For the reasons given above, the Government cannot but oppose the motion for the repeal of the Press Law.

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Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).— The press, Mr. President, discharges a function in the State which cannot be dispensed with. Whether it be in the instruction of the public, the formulation of public opinion or the reasoned criticism of public activities or the policy of the Government, they perform an inestimable part in the public life. At the present moment, Sir, more particularly, when the State has launched upon an era of constitutional reforms the like of which Indian India had not known till the 4th day of January 1938 the first step taken for the establishment, not at a distant date, I am confident, Sir, of full Parliamentary Democracy in Cochin we must look to the Press—a free and unfettered press—to discharge its noble functions as the fourth estate of the realm. "The liberty of the Press", Lord Mansfield has stated, Sir, "consists in printing without a license, subject to the consequences of law". "And the law of England" says another eminent Judge, Lord Ellenborough, "is a law of liberty and consistently with this liberty we have not what is called an imprimatur. There is no such preliminary license necessary but if a man publishes a paper he is exposed to the penal consequences as he is in every other act if it be illegal." My contention, Mr. President, is that the existing law of the land now obtaining in Cochin is quite sufficient to meet any situation however critical it may be.

If I, therefore, stand up here this morning to support the motion for the repeal of the News Paper Act of Cochin—yes, it is a motion for the repeal and not the amendment of the Act—it is because of my great anxiety to see that the distinctly new and healthy atmosphere, that the gracious announcement regarding constitutional reforms has been able magically to create throughout the length and breadth of Cochin, is maintained—nay fostered and encouraged to grow in an increasing measure by the effective working of a free and forceful press by having the gag that is now round its neck being removed.

I propose Sir, to substantiate the proposition before the House for the repeal of the Press Act on three grounds. The first is that no justifiable circumstances existed two years back when this obnoxious and unwanted Bill was introduced in this House by the redoubtable spokesman of the Government of Cochin, the Honourable Member for Law. My second ground, Sir, is that no justifiable ground exists now for its retention on the statute book. My third ground, Sir, is that the circumstances existing in Cochin today do not warrant such a piece of legislation being retained in the statute book. On the

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other hand, those environments call for its repeal. These are the grounds on which I support the motion before the House. Now I shall deal with all these three one by one. Let us examine the first ground, viz., the non existence of any necessity for the introduction of a Press Law two years back. What is it that the Government spokesman has told this Hon'ble House on that occasion? He has given us, Mr. President, 10 pages of printed matter in his attempt to substantiate the case for the introduction of the Act. I perused his speech, Sir, very carefully but I was not able to find any justifying circumstance for the introduction of a Press Law at that time. I have failed, Sir, I confess. Probably it may be due to my inability to understand the pronouncements of the Hon'ble the Government Advocate of Cochin. In introducing that Bill the learned Government Advocate of Cochin is seen to have taken us through the history of Press Regulation in the sister State of Travancore which fact was again repeated here by the Hon'ble the leader of the House today and also the history of Press Law of British India. It was argued then, Mr. President, that since there exists a press law in the sister State of Travancore and since in British India also there is a Press Law, the Government do think that there is nothing wrong in introducing a Press Law in Cochin also. Probably the idea was to fall in line with our neighbours. But the learned Government Advocate of Cochin seems to have not noticed the peculiar circumstances under which the Press Law was introduced in these two places. Very peculiar circumstances, Mr. President, did exist in both the places vitally affecting the powers that be. Leaving the circumstances obtaining in Travancore to be inferred from the fact that the then administration of the State was carried on by the Regency, I will place before this Honourable House the circumstances, the critical circumstances, extraordinary conditions that existed in British India at the time of the introduction of the Press Act of 1931. What is it that we find in British India when the Press Bill was introduced in the Indian Legislative Assembly on the 11th of September 1931? The Hon'ble Sir James Crerar, the then Home Member to the Government of India, said, Sir, when introducing the Bill in 1931 that "the situation is one of great and increasing gravity. Public opinion had been deeply and justly shocked by the unhappy prevalence and the serious extension of terrorist crimes. Public opinion is insistent in its demand for a remedy of the situation. It was impossible for the Government to sit idle and inactive." The circumstances, said the spokesman of the Government of India, were such that it was

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impossible for them to manage without a Press Law. Now, Sir, that is how he sought the support of the Assembly when Sir James Crerar introduced the Bill, and not like the Hon'ble Law Member of Cochin. Sir James Crerar stated thus in general terms the circumstances existing in British India which warranted the introduction of the Press Bill. The Home Member to the Government of India prefacing his arguments in general terms as stated above supported his position by narrating to the House aggravated telling instances one after another of a section of the Press which left no option to the Government of India than to introduce this measure. It is not like the introduction of the Press Law in Cochin. The Home Member gave many pages of printed matter containing extracts from the Vernacular papers and some English papers too that were inciting the people to terrorist action. Copies of these cuttings printed in book form were put into the hands of each member of the Assembly to make them understand what were the circumstances that called for the introduction of such a measure. I will place before this House at a later stage some of the telling passages contained in these brochures of cuttings from the papers. The Bill was introduced in the Imperial Assembly on the 11th day of September 1931 and in the opening speech of Sir James Crerar he observed as follows:—"In the year 1929 the number of crimes of a terrorist nature resulting from the dissemination of revolutionary literature amounted to 19. In the year 1930 it amounted to 74 and up to 31st August 1931 the number of terrorist crimes was 118". This was the nature of the effect produced by the publications in a section of the Press. There was an attack on the life of the Governor of Bombay and the assassination of a young military officer on the 23rd July. Then there was the murder of the late Mr. Garlic, a District Judge. There was an attempt on the life of Mr. Cassels, the Commissioner of the Dacca Division on the 21st August. There was again an attempt on the life of Khan Bahadur Asanulla at Chittagong. I am only extracting from the speech that Sir James Crerar delivered in the Assembly introducing the Press Act of 1931. These were the circumstances that the Home Member to the Government placed before the members of the Assembly substantiating his position for the introduction of a measure of the restricted nature of the Press Act of 1931. What on the other hand has the Hon'ble the Law Member to the Cochin Government told us except telling us that there was an attempt on the part of a certain section of the press to disseminate scurrilous, obscene and dangerous literature. When pressed from this side for specific instances

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he gave two instances one of which is rather a shameful one, and that is about the market rate of a certain lady teacher. There was another ground too to which I will refer later in the discussion. Let us examine how the first ground helps him in his endeavours to rest his case for the introduction of this measure. The able Government Advocate forgot that the first of the two grounds was the identical argument advanced by him when he came before this House to ask for some measure to control the press just an year before the introduction of the Newspaper Act. He was satisfied then, Sir, with an amendment to the Press and Registration of Books Act. He requested the Hon'ble House to incorporate in that Act (Act No. VII of 1097) a small provision that every newspaper printed in Cochin should contain the name of the Editor printed on the outside and that the Anchal authorities should be given the power to keep back obscene literature from transmission. He told us, Sir, that the situation that had then arisen could be effectively met by that amendment and another to the Criminal Procedure Code giving power to Government for the seizure and forfeiture of such literature.

Mr. President.—I hope you will continue it for some time more.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Yes, Sir, I may take about another hour.

Mr. President.—Then we shall meet after lunch.

The House rose for lunch at 1 p. m. and re-assembled at 2-30 p. m. with M. R. Ry., P. C. Varkey Avl., (Panel Chairman) in the Chair.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—When we rose, Sir, for lunch I was on the marshalling of facts by the Home Member to the Government of India when he asked for support of the Assembly for the sending of the Press Bill of 1931 to a Select Committee and how the attempt at the same game by our learned Law Member fared in comparison. I was telling this House in the morning that the case for the introduction of the Bill in the Imperial Legislative Assembly was substantiated by providing the Assembly with material running to many pages of printed matter containing cuttings from various newspapers that were indulging, at that time, in the dissemination of revolutionary literature. Some of these papers were even forced against their will to print and publish revolutionary literature on penalty of death. As promised by me in

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the morning I will place before this Hon'ble House some of the telling samples of the writings in which a section of the Press was indulging at that time which necessitated the introduction of the Press law in British India.

Here is a letter sent to the Editor of a revolutionarily inclined paper by a terrorist body. The Editor was not prepared to go the whole hog and did not publish some matter sent to him. On being threatened with death the Editor publishes and the Revolutionary body writes:—"To the Editor, Skamic. Comrade, we could not help laughing as we realised the helplessness of your condition in publishing the 'Red pamphlet' last week. We exist and will certainly do so. You are afraid, but death is the companion of our youth. We will not be content with destroying the white-skinned English only, we want the destruction of the native black-skinned Englishmen too. Further we want the downfall of Gandhi who is religious-minded, a traitor to the nation and a patron of capitalists." In the same paper appears the following incitement to rob the rich people:—"If there is money in the land, no difficulty is ever experienced in collecting arms and ammunition in sufficient quantities. Hence, money is needed first. If the people of the country do not give money of their own accord, what alternative is there to snatching away money from the rich?"

The same paper gives us this:—"We should of course bear in mind that the fight for freedom in our case will not be an open fight. We shall take to guerrilla warfare, for, following this method of fighting, a handful of men may weaken even a strong antagonist with the help of a small number of weapons. In an open fight, the English may very quickly put down the revolutionaries by means of their well-trained soldiers, cannon, aeroplanes, etc., but if war is waged according to the above mentioned method, on whom shall the English exercise their military skill and on whom will they have the best opportunity of ruthlessly raining their cannon balls and bullets?" It goes on further:—"Many will perhaps ask whether it will be possible for us to bring freedom into the country by practising terrorism in the manner in which it is being practised now, that is, by the explosion of bombs and the firing of bullets anywhere and everywhere. This sort of sporadic terrorism is of course not of much use. What will have to be done is to start a lasting and country-wide terroristic movement; here we shall have to consider why revolutionaries practise terrorism. If exactly at the time when 'goonda rule' is introduced into the country by some particular person or at the secret hint of somebody, i. e., at the time when the people of the country, thoroughly put out by his behaviour, desire his death, somebody relieves the oppressor of the burden of life, it is but quite natural that the sympathy of the people of the country will be attracted to him and his ideal. It is exactly for this reason, i. e., with a view to winning the sympathy of the countrymen that revolutionaries practise terrorism. Again, it may also so happen that, on the murder of the above-mentioned man, the successor to his post may, out of revenge, try to repress the people of the country more severely". Later on it continues:—"Those days are no more; the emancipation of India will not be achieved

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by prayer to God. Draw out the sword. These demons are not of that type." The above are samples of what was published under threat. The same paper publishes of its own accord the following:—

"I made an end of the family of the Czar at the point of the sword at Lenin. As long as there is oppression my scimitar will be again and again dyed red with the warm blood of man."

Mr. A. V. Moothedan *(Chalakkudi).*— What is the necessity for these long quotations? It is tiresome to have these quotations.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— Is it a point of order, Sir, that the Hon'ble Member has raised?

Chairman.—You may continue.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— Thank you, Sir, I am sorry for the Hon'ble Member who feels tired. I have found myself in the unhappy position of not being able to supply something agreeable to the Hon'ble Member for Chalakkudi. I was only attempting to supply information and not the other thing.

Mr. K. S. Manikam *(Irinjalakkuda).*—What is the other thing?

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— You may guess. Another quotation in poetry from another Calcutta paper:—

"Yes, 'Rebellion', 'hot', 'fiery' and 'terrible' is my name,
In whose possession is death, in whose wake follow a general massacre,
Murder, brutality, roar, storm, ruin and warfare.
With one gesture of my hands the entire world is overthrown.
Like death I spread over the head of life.
First of all I destroy the betrayers.
Then with a graceful gait I advance towards the Rulers.
Spurning with contumely law and imprisonment.
Seeing the havoc done by my bloody feet,
The crown of the Ruler trembles.
By yelling thus I infuse enthusiasm among the people."

This is the case of a press, Sir, which attempts to rouse enthusiasm among the people by its writings like the above. Here are passages from two papers inciting the people to rise against capitalists and other oppressors.

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Sramik, Calcutta. "O, brother workers, see there the god of equality is coming overcome by the intoxication for blood. The Red Flag is fluttering in the sky and the god of destruction is coming, his sword quivers thirsty for the blood of the oppressor. O, brother workers your sufferings will come to an end. May Day has come back again at your doors to remind you of the bloody, pleasant day. Strike the capitalists; smash their houses of festivity and raze them to the dust. Let those satanic exploiters quake, difficulties are solved through blows—so wield the rod not even that is the end. Piercing through the ribs of cowardly oppressor wield your scimitar recklessly to-day making the bubbling blood flow. Make them swim to-day in a current of blood four times as much as the quantity of blood they have sucked out from your breasts. Let that carnival of blood, commence from to-day with blows of the hammer, crowbar and the plough on the path slippery with blood. Let this memorable day sound the triumphant flute of fire on behalf of the workers in the world".

Another paper in justification of political murders, (*Sarbahara, Calcutta*) writes:—

"If a number of English officials and traitorous Indians are murdered, India might not forthwith become free, but it can be easily stated that she advances far thereby on the path to freedom. Remaining in a disarmed condition Indians have come to feel that they are incapable of using arms. They have forgotten even that they have the capacity to fight, that they have the power to take the lives of their enemies. We find that there is very great need of this kind of political murders, etc., to rouse in the minds of this self-forgetful nation a belief in their own real capacity and to rouse in their minds a desire for vengeance".

I shall try to oblige my tired friends by desisting to quote as copiously as I wanted but I cannot resist the temptation to give the following as the last quotation from another paper. Writes the newspaper Payam:—

"Bhagat Singh, Raj Guru and Suk Deb have been hanged. The lives of only three persons have been taken but these were the lives which were dear to 32 crores of souls of India. By murdering them the English Government have thrown out a challenge to the manhood of entire India. Will India accept this challenge or will she stop after lamenting like cowards? The whole world is awaiting to hear a reply to this question. On this reply alone depends the fate of both England and India. If India accepts the challenge the future of England will be dark: but if she refuses to do so, then she must be disappointed about her own future'.

It was by supplying Members of the Assembly beforehand cuttings from various newspapers like the above that Sir James Crerar asked for the support of the Assembly. Had the spokesman of the Government of Cochin anything like that or anything approaching to that when he introduced the Newspaper Act in this Council to rest his case on. No, Sir, he came to

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this House with no legs to stand upon. The Government Advocate only told this House that there was a necessity for such a legislation in Cochin. I repeatedly asked the Hon'ble Law Member for instances where the press had gone wrong and could not be dealt with under the existing law. He could not tell this House anything like what forced the Imperial Government to introduce the Press Law in British India. The Government Advocate of Cochin instanced only two cases which according to him warranted the promulgation of the Press Ordinance and its subsequent introduction in this Council. One of the flimsy instances is the shameful thing which I referred to before.

Mr. A. Narayana Menon *(Vyttila).*—I request the Chair to limit the time of the speech.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Sir, I have a right to hold the House under the rules. I refuse to give way to my Hon'ble Member for Vyttila. When I am on my legs, unless it be on a point of order, I cannot be interrupted. I know I am addressing almost empty benches. But even empty seats will have life. I know how to get Hon'ble Members to their benches.

Chairman.—The Hon'ble Member will bear in mind that there are other Members to speak.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Please excuse me, Sir, for saying one word. The other Members can very well speak when their turn comes. I may respectfully inform you, Sir, that as far as legislation is concerned there is no time limit fixed for speeches under the Standing Orders. Our Dewan President, has, with his creditable experience as the President of the Imperial Assembly also ruled that there is no time limit for discussion on legislation. I can continue speaking till 5 p. m. today and if necessary I can continue to speak in the next session. Now therefore let me continue, Sir.

I submitted, Sir, that the Government Advocate gave this House two instances. The first instance has no bearing on the case just in hand because that one viz.; the quotation of the market rate of a graduate lady teacher was the argument that the Government Advocate advanced 12 months prior to the introduction of the Newspaper Act when he came to this House with two amending Acts, one to amend the Cochin Press and Registration of Books Act wherein he wanted a clause to be introduced to give power to the Anchal authorities to

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withhold the transmission of obscene literature. That amendment was passed by this House after going into it and providing necessary safeguards which safeguards, I am glad to state, the responsive Government of Cochin was pleased to accept. The other Amending Bills wanted to amend a section of the Criminal Procedure Code by which power was granted to the Government to seize and forfeit any literature that was considered to be obscene or had the tendency to create the disaffection between the subjects of His Highness. That Amending Act again was passed by this House after providing sufficient safeguards. The Hon'ble Member for Law when he introduced these amending Acts cited this unhappy instance at that time. He said that the situation that had arisen then could be effectively met by these two Amending Acts even which he told us then he was quite reluctant to do since it did disturb the unique position which enlightened Cochin enjoyed till then.

Now, after being satisfied with the introduction and passing of two such Amending Acts as the above in the month of Kumbham 1110, to come to this House in the month of Meenam 1111, just a year over and ask for the help of this House for the sanction of the non-official Members for a measure of the type that was brought here in the shape of the Newspaper Bill without advancing further arguments, able arguments as the ones I have read out to the House or anything approaching to that is something which I cannot easily understand. To have the support of the House excellent reasons that arose between the above two Amending Acts and the introduction of the Newspaper Bill will have to be given. That has not been done. Of the two flimsy reasons advanced for the introduction I have disposed of one as irrelevant. What is the second one? The Hon'ble Law Member said as follows:— "Most unfounded and defamatory articles were published not only against individuals but against responsible officers of the Government and the Government itself. Grievances were imagined, ordinary grievances were magnified and distorted versons were given without the least excuse or justification and such conduct became a habit with certain Newspapers. The Government thought that allowing that sort of literature to spread without any check would be a pernicious thing, would be dangerous to society as well as to the Government and they thought it was necessary that action should be taken."

Very good, Sir. Even if the Hon'ble Member for Law were able to substantiate every word of the quotation, even then, I could convince this House that there is no case for the introduction of the Press Bill. But most of the things mentioned by the Hon'ble Member according to my lights, are not warranted by facts. I pressed at the time of the discussion for specific

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instances, I asked times out of number and there was no response then, just as we had no response yesterday from the Hon'ble Government Secretary. (Shame, shame.) Let us see to which particular things the learned Government Advocate was referring. What was then in the minds of the Hon'ble Member. Were the subject matter of the three prosecutions pending at the time. Then it was subjudice. I could not refer to that point then. Now the cases have been decided and I can therefore speak about it. There was a primary prosecution against Mr. Venguswamy for having published a matter which the Government thought merited prosecution. It might be a good case for prosecution. I need not sit in judgment on that. Judgment has been pronounced by better authority. Let it be granted that the judgment is perfectly right. There were two other secondary prosecutions against two papers which published the gist of Mr. Venguswamy's publications. Those two Editors who only copied the articles and were therefore prosecuted made amends for their alleged misdeeds and they got themselves free although after much trouble.

Mr. A. V. Moothedan *(Chalakkudi)*.—Which were those papers?

Mr. P. Kumaran Ezhuthassan *(Wadakkanchéri)*.—The Hon'ble Member must know. It is only two years now. I can tell the Hon'ble Member for his information. They were the prosecutions against the 'Gomathi' and the 'Cochinite'. What is the lesson of that prosecution? What is it that we have learned? The trial court, the first appellate court as also the second appellate court found it possible to book the offender under the existing law. It has been seen, Sir, that the existing law was sufficient to deal with a case of attempting to bring discredit to a constituted authority and attempting to create disaffection towards constituted authority as was attributed to Mr. Venguswamy. He was booked and he was incarcerated for long—happily he has now come out of jail. I know he is doing some useful work. All glory to him for the new leaf turned out by him. The existing law was quite sufficient for such cases.

Has the Government spokesman been able to substantiate his case with any other arguments? I traversed ten pages of the speech made by the Hon'ble the Government Advocate. But I did not find anything. I submit, Sir, that to meet cases of the sort mentioned in section 5 of our obnoxious Press Act, sections there are in the Criminal Procedure Code relating to

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certain of them and in the Penal Code relating to certain others to effectively check such pernicious things that any newspaper Editor may take it into his head to indulge in printing. That being the position what was the necessity to have a Bill introduced, I ask. The position of the Government was so weak that when this Bill was introduced here in this House, the Government with all the capacity that they have for winning their point of view were not able to carry this House with them. The Bill that was originally sprung upon us as an ordinance under section 15 of the Cochin Legislative Council Act, within but ten days of the notified sitting of the Council was introduced in this Council on the third day of the sitting. And this Hon'ble House which knew its business threw out the motion for the introduction of the measure. There were repeated, and varigated prayers made by the Hon'ble Government Members, as the Government spokesman has indulged in yesterday and today to some of the non-official Members to go to the rescue of the Government by allowing the Bill to be sent to a Select Committee. But as the very elementary rules of legislation said that unless the principle of the Bill was accepted no Bill shall be sent to a Select Committee and as the principle of the Bill according to me and according to the view of quite a large number of my Hon'ble Colleagues was the *licensing of the Press*, the fourth estate of the realm, this Hon'ble House threw out the motion for reference to a Select Committee. The licensing of the press, Sir, is a thing which is quite unknown to civilised countries and without which the Government of Cochin was managing before the year 1111. The Bill was therefore thrown out mercilessly by this House. The ordinance however had six months life from its promulgation and it was therefore to be in force till the 25th Kanni 1112. And before the original life expired the ordinance was made into a permanent law under the powers reserved under section 17 of the Cochin Legislative Council Act and we had the Newspaper Act of Cochin (Act II of 1112) placed permanently on our Statute Book-a disgrace to the fair name of enlightened Cochin.

Now, Sir, let me go to my second ground viz., there are no justifying grounds for the retention of the measure on the Statute Book any longer. Have not the responsive Government of Cochin noticed how the press law was received by the public? I deliberately use the word responsive. I do mean what I say. That responsive Government have shown its responsiveness on various occasions. We are thankful for that and even proud of that responsiveness. What was done by the non-officials of

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this responsible House. The first time this House met after the ordinance was promulgated, a section, an appreciable section of the non-officials of this House walked out, which gave them the name of irresponsible and that their policy was described as pedestrian politics. Still the matter remains that as many as 18 or 19 non-official chosen representatives of the people thought it necessary to register their protest by that method, no other being available to them. This is, Sir, the first thing that this House did when they felt insulted by the ordinance. This was the second occasion in the history of this Council on which a section of the House walked out, the the first being when a retired officer from Travancore was brought here to take the responsibilities of a department that was then presided over by our esteemed Chief Engineer who had just then gone on leave. Our walking out, Sir, was the first sign of resentment and our throwing out the Bill when it was subsequently introduced in this Council was the second sign of resentment. Within nearly four months of these two events what do we find? In the Budget Session of 1111, Karkitagom we find a cut on General Administration carried for the repeal of the Press Act. It was an unanimous cut. That fact is noteworthy. Even those Hon'ble Members of this House who could not join us in our walk out and who actually exhorted their colleagues to allow the Bill to go to a Select Committee joined us in carrying the cut for the repeal of the obnoxious Press Act within four months of its promulgation as an ordinance. Were not these three acts of this House, Sir, unmistakable signs to show how Cochin received the repressive measure? Were not these, Sir, indications for a responsive Government not to continue the ordinance any longer. But what did the Government of Cochin do even after these three unmistakable signs of resentment were shown by the representatives of Cochin? I am sorry, Sir, that these unmistakable signs of the attitude of the chosen representatives of the people regarding the press law are seen to have been not a sufficient eye-opener to our astute politician Diwan for advising His Highness not to give any more life to the ordinance. We thought that such an advice would be given to His Highness and not advise His Highness to place this pernicious Act on the Statute Book of Cochin. But we were greatly disappointed, Sir, to find in one of the earliest gazettes of 1112 a few pages appended to it as the permanent Newspaper Act.

Now, Sir, what was the attempt of the Hon'ble Secretary to the Government who took up a portion of last evening and

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a longer time this morning? He was also taking us through the beaten track traversed by his colleague the learned Law Member two years back. The Government have conceded, Sir, that the press subsequent to the Newspaper Act at any rate has been conducting itself properly. Then why retain the Newspaper Act on the Statute Book, I ask. Do not the Government know that the Press Act introduced in 1910 in British India was subsequently repealed and British India managed without a Press Act for a long time? So what I submit, Sir, is that there are no justifying grounds for a responsive Government like Cochin to retain the Press Act any more on the Statute Book.

Chairman.—You have taken more than 30 minutes.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Sir, I will only point out in this connection that when a similar point was raised in the Legislative Assembly when the Indian Press Bill was being discussed there it was ruled that when legislation is being discussed there is no time limit. If necessary I can quote the very ruling. It was the ruling of Mr. President Sir Ibrahim Rahimtulla when the famous Mr. C. S. Ranga Ayyar was on his legs opposing the introduction of the Press Bill, when a barrister member Mr. K. Ahmed raised a point of order as to time limit. Now to place my case fully before the House I may take a little more time. I have to refer to the points advanced by the Hon'ble the Leader of the House.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I rise on a point of order. It is no doubt true that with regard to legislation our Standing Orders do not expressly say that a Member may speak for so many minutes but there is a residuary Standing Order by which a plenary power to regulate the business of the House is given to the President especially when the Chair is satisfied that a Member is speaking merely for the purpose of talking. I am speaking about Standing Order 71 which is to this effect. "The President shall have power to regulate the conduct of business in the Council in all matters not provided for in the Act, the Rules or Standing Orders." Now that S. O. is obviously for meeting a case like this. Suppose the President finds that an Hon'ble Member is speaking for hours together repeating the same thing and taking the House to nowhere in spite of the repeated declarations of the other Hon'ble Members, then surely the President can under this Standing Order say that he will not be a party to such a thing. I am not saying that the Hon'ble Member for Wadakkancheri is doing like that.

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The business of this House cannot be brought to a delusion by the misguided activities of one individual Member. I repeat that you have abundant power under the Standing Order to enforce your discretion should you arrive at such a decision.

Mr. Chairman:—I have only to point out to the Hon'ble Member that he has taken sufficiently long time and ordinary courtesy requires that he should give opportunities to others also to speak. I do not want to give a ruling on the point of order raised. He will finish his speech soon.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— Sir, I accept the advice given to me by the Chair, though not in the form of a ruling to the point of order raised in a most insinuating fashion by the Hon'ble the Government Advocate because I have got the greatest respect for the Chair and for the person occupyng it.

Now just to oblige my friends I will close. Now, Sir, let me arrest the atmosphere of the argument that I was at. Yes. I was with the Hon'ble Leader of the House. I will run over the whole of his argument in as short a time as possible. He told us, Sir, that the preamble is not objectionable. It only says to 'exercise better control'. But I ask why? Existing provisions of law are seen to be sufficient to control the Press to the extent required. Then why the Press Law? He then took us, Sir, to section 3 which he said only prescribes the license fee ranging from one rupee to five hundred rupees. He told, Sir, that only one paper was asked to deposit the maximum. Why this discrimination? There is only one explanation. That particular press for obvious reasons was not liked by Government and hence the maximum license fee was levied from it. The objection again, Sir, is not for the amount of license fee but for the idea of licensing itself. It is that that is revolting. Then he took us to section 5 which is the operative clause in the Act. Section 5 is to this effect:— "Whenever it appears to the Government that any Newspaper in respect of which a license has been granted under this Act:—

(1) contains any words, signs or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise (a) to excite disaffection against or bring into hatred or contempt His Highness the Maharaja of Cochin or the Government of His Highness the Maharaja of Cochin or His Majesty the King Emperor of India or the Government established by law in British India or (b) to promote feelings of enmity or hatred between the several classes of people in Cochin or (II) habitually publishes matter punishable under Section 480 of the Cochin Penal Code or (III) habitually disseminates false information.

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"the Government may with or without previous warning cancel, by notice in writing to the printer as well as to the publisher of such Newspaper indicating or describing such words, signs, visible repsesentation or matter, the license granted in respect of such Newspaper and upon such cancellation the declarations made under section 5 of the Cochin Press and Registration of Books Act VII of 1097, in respect of such Newspaper, shall be deemed to have been annulled and the license fee shall be forfeited to the Government.

One argument of the Hon'ble the Leader of the House in defence of this section was that the various acts which are mentioned in that section do find a place in the existing law of the land and that there is nothing new in the Act. If really the existing laws do provide for dealing with the acts mentioned in the section—and everybody will concede that much—then why the Press Act? The Goverment can under the existing law very well book an offender.

Upon the scope of this operative section, Sir, which the Hon'ble the Leader of the House characterised as most innocent a very authoritative condemnation has been made by no less an authority than Chief Justice Jenkins of the Calcutta High Court. It is to the following effect:— "The provisions of the section are very comprehensive, and the language is as wide as human ingenuity could make it. Indeed it appears to me to embrace the whole range of varying degrees of assurance from certainty on the one side to the very limits of impossibility on the other. It is difficult to see to what lengths the operation of this section might not plausibly be extended by an ingenious mind. They would certainly extend to writings that may even command approval. An attack on that degraded section of the public which lives on the misery and shame of others would come within this widespread net; the praise of a class might not be free from risk. Much that is regarded as standard iterature might undoubtedly be caught."

Now, Sir, Chief Justice Jenkins of the Calcutta High Court condemns the operative section as stated above and yet the Hon'ble Leader of the House would tell us that the section is innocent. I shall not make comments. I will contend myself by saying that the section is so vaguely and widely worded that any paper that is unfriendly to the Government can be caught under the provisions of this section.

Then the Hon'ble Secretary to the Government took us to section 9 which is the section that contains a relief to the aggrieved party against the executive fiat. Section 9 reads "Any person aggrieved by an order under section 5 or section 7 may within two months from the date of such order apply to the Government for reconsideration of such order on the ground that the Newspaper in respect of which such order was made did not in fact contain any words, sign,

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visible representations or matter of the nature described in section, and the Government shall, thereupon either revoke such order or shall refer such application to the Chief Court forwarding to the said Court a copy of such order with the connected records ".

The same great Chief Justice gives his opinion on the peculiar provisions contained in this section regarding proof before the Judicial Tribunal. Chief Justice Jenkins says: " If the applicant cannot establish the negative, his application must fail. It is not enough for the applicant to show that the words are not likely to bring into hatred or contempt any class or section.....or that they have not a tendency in fact to bring about that result, but he must go further and show that it is impossible for them to have that tendency either directly or indirectly and whether by way of inference, suggestion, allusion, metaphor or implication. Now is that all, for we find that the Legislature has added to this the all-embracing phrase ' or otherwise ' ."

The same eminent Chief Justice has to say something about the powers of the Judicial Tribunal granted under this section. Comments Chief Justice Jenkins:— " The High Court's (Here the Chief Court's) power of intervention is the narrowest; Its power to pronounce on the legality of the forfeiture is barred. The ability to pronounce on the wisdom of the executive order is withheld: and its functions are limited to considering whether the applicant to it has discharged the almost hopeless task of establishing his paper does not contain words which fall within the all comprehensive provision of the Act.

Chairman.—The Hon'ble member will conclude.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— Yes, Sir, I shall conclude. I have shown, Sir, that there were no justifying circumstances to introduce the Newspaper Act. I have also shown, Sir, that no justifying circumstances exist now for the retention of the Act on the Statute Book. I have also attempted to show on very high authority that the provisions of the Act are not as innocent as the learned Leader of the House pretends, but that they are all comprehensive and mischievous. I have also shown, Sir, that the provision to go before the Chief Court almost amounts to a farce.

Now to the third ground on which I rest my support for repeal. My submission, Sir, is that the circumstances existing in Cochin do warrant the repeal of the Newspaper Act.

Chairman.—The Hon'ble member will sit down.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*— I am sorry, Sir, that I have caused the remark. I want but two minutes more, Sir. These circumstances, Sir, are that the

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working of the Press for the last 2 years has been quite satisfactory even from the Government view point. The Government of Cochin, which claims to be responsive—and I concede that to a great extent the Government is responsive—have before it the clearest indications as to how the people of the country feel in this matter, those indications being the walk out first, followed by the throwing out of the Bill, followed again by a unanimous cut being carried for the repeal of the Newspaper Act. And lastly, but most important of all is that the atmosphere of good-will and joy magically brought about by the gracious announcement of His Highness the Maharaja regarding constitutional reforms has to be encouraged and in that process the press of the country must be allowed an unfettered play. On all these grounds therefore, Sir, I appeal to the responsive Government of Cochin to take away this unwanted measure from the Statute Book of Cochin and thus bring back enlightened Cochin to the unique Position she was enjoying in that she was managing without a Press Law. Let the liberty of the Press, Sir, be restored to it. That is the prayer I make. I have done. I thank the Hon'ble House for its indulgence.

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* **Mr. K. M. Ibrahim** *(Cranganur).*—Sir, the most important point on which the argument of the Hon'ble the Leader of the House for the retention of this law in our Statute Book is that in our very neighbourhood in British India and in Travancore, we have got similar if not a bit more rigorous kind of legislation. I submit, Mr. President, that does not lie in the mouth of the Hon'ble Member of the Treasury Bench, to bring up this argument. In tens and tens of instances of recorded authority in this very House, Government Members have shown that the conditions and legislations in our very neighbourhood of British India and Travancore are not all applicable to the peculiar circumstances in this place. Only to quote a most recent example, even in our last Verumpattom-Kudiyan Bill which according to us was in force in our immediate neighbourhood of Malabar, our next-door neighbour, the Hon'ble Members on the Treasury Benches took the position that we in Cochin have a very exceptional kind of situation here, an extra-ordinary state of affairs here, of a very fundamentally different state of affairs here, from our very frontier, that they could not at all tolerate the enactment of such a legislation here. So I say that it does not lie in the mouth of the Hon'ble Member to bring this pretext as a strong argument in

* Speech not corrected by the Hon'ble Member.

the face of his own previous argument. I plead on the principle of estoppel, on the virtue, on the strength, of the law of estoppel. The Hon'ble Members of the Treasury Benches are completely debarred from bringing in this argument as a solid argument (Hear, hear).

Mr. A. Narayana Menon *(Vyttila)*.—What is estoppel? Here there is no estoppel.

Mr. P. Govinda Menon *(Adur)*.—Have not you heard of the law of estoppel?

Mr. K. M. Ibrahim *(Cranganur)*.—I mean by estoppel that whenever we bring in arguments to create ameliorative measures, they say in their arguments that the conditions are completely different here from British India and Travancore and whenever we have brought here Bills saying that similar legislations exist there, they have been accustomed to bring out the argument that conditions there are entirely different from our own affairs. So I say that to people who have been harping on this argument, people who have been saying that conditions are entirely different here for them, the principle of estoppel applies. I believe my Hon'ble friend for Vyttila has understood the point.

Mr. A. Narayana Menon *(Vyttila)*.—That is not an estoppel.

Mr. K. M. Ibrahim *(Cranganur)*—Then, Sir, I have to bring to the kind notice of the Hon'ble Members of this House of a very fundamental difference, of a very vital difference, between the conditions that prevailed in British India that gave birth to the Press Law there and the conditions that existed in our State which according to the Hon'ble Members on the Treasury Benches gave us sanction to this special statute. In British India, Sir, the time when this legislation came into being was when tens of thousands and hundreds and thousands patriots were in jail, shut up for political offences. Executions after executions for terrorism have been carried out. The various terrorists were being murdered by law. In such a very strong, in such a very thrilling, in such a very emergent situation, it was thought necessary that such a law was expedient there.

Again, turning our attention to Travancore, even there, I will say, the conditions are quite different from our own State. In Travancore we are all aware of the daggers that were being drawn between interests of the various communities. It is

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almost recent history how communal wranglings took a very objectionable aspect there. Do not the Hon'ble Members recollect that one editor was deported for life from Travancore for having published strong comments in his paper? When such things were taking place in Travancore, it was thought that some kind of vigorous press law was necessary there. In our State, I believe, we have got a very plain state of affairs, we have got very little of noise and little of thunder, very little of flashing here. We have got a law-abiding, we have got a loyal, we have got a peace-loving, we have got a peaceful subjects, always loving the person of our beloved Highness the Maharaja and the Government constituted under His Highness. So I wish to compare the situation of either British India or Travancore to the conditions of our own peace-loving Cochin, and I find the comparison an absurdity.

Now, Sir, another apparently strong and solid argument brought out by the Hon'ble the Leader of the House, the Member for the Secretariat, was that our statute, though restrictive in form, is in administration made a kind of innocuous piece of legislation. What he maintains is that in actual practice the guillotine is not properly applied, the guillotine is not applied with full force. Though they have the strength of giants, they are not using their strength as giants. I wish to take a very strong objection to that. Even granting that the full force of the statute is not given in our State in practice, even though it is fully made a dead law or a half-dead law, even granting that, the statute, when once it finds a permanent place in the Statute Book, is itself a great public danger. When once it finds its repressive character, the statute will be incessantly crying out "Well, gentlemen, why are you not using me?". Even supposing we have got a very progressive administration who are not having recourse to this repressive statute, the mere existance of the statute will *ipso facto* cry out to the administration "why, gentlemen, you are not exercising me?" That will be a kind of prick of conscience, a kind of inducement to the bureaucracy. So even granting that our Government is an innocent Government and even granting that this statute, in practice, has been made innocuous, I say, in the long run, you may have to provide for ever-so-many things. You may not always have the same personnel in the Government, you may not have the same personality, the same liberal views—things may change like that and in such a contingency if such a law of this killing nature is allowed to remain in the Statute Book, that itself

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constitutes a great public danger. On these grounds, I submit, Sir, the Hon'ble the Secretary's argument, however clever it was, is not convincing to the House.

Mr. Shabdai S. Koder *(Jews-Special).*—Sir, I move for an adjournment of the House.

Mr. K. Ayyappan *(Ezhuvas South).*—I second it.

Adjournment motion was put and carried.

The House stood adjourned sine die at 3-30. p. m.

B. V. KRISHNANKUTTY MENON.

Secretary to the Council.

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